

AMENDED IN SENATE JUNE 16, 2010  
AMENDED IN SENATE SEPTEMBER 2, 2009  
AMENDED IN SENATE JUNE 29, 2009  
AMENDED IN ASSEMBLY APRIL 29, 2009  
AMENDED IN ASSEMBLY MARCH 31, 2009  
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 179**

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**Introduced by Assembly Member Portantino**

February 2, 2009

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An act to amend Section 201.3 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

### **LEGISLATIVE COUNSEL'S DIGEST**

AB 179, as amended, Portantino. Wages: temporary workers.

Existing law provides that for employees of temporary services employers, as defined, wages shall be paid weekly, or daily if an employee is assigned to a client, as defined, on a day-to-day basis or to a client engaged in a trade dispute. Existing law imposes civil and criminal penalties on an employer who violates certain wage payment requirements.

This bill would permit employees of temporary services employers who provide specified health care services to be paid semimonthly.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 201.3 of the Labor Code is amended to  
2     read:  
3     201.3. (a) For purposes of this section, the following  
4     definitions apply:  
5     (1) “Client” and “customer” mean the person with whom a  
6     temporary services employer has a contractual relationship to  
7     provide the services of one or more individuals employed by the  
8     temporary services employer.  
9     (2) “Employing unit” has the same meaning as defined in  
10    Section 135 of the Unemployment Insurance Code.  
11    (3) “Temporary services employer” means an employing unit  
12    that contracts with clients or customers to supply workers to  
13    perform services for the clients or customers and that performs all  
14    of the following functions:  
15    (A) Negotiates with clients and customers for matters such as  
16    the time and place where the services are to be provided, the type  
17    of work, the working conditions, and the quality and price of the  
18    services.  
19    (B) Determines assignments or reassignments of workers, even  
20    if workers retain the right to refuse specific assignments.  
21    (C) Retains the authority to assign or reassign a worker to  
22    another client or customer when the worker is determined  
23    unacceptable by a specific client or customer.  
24    (D) Assigns or reassigns workers to perform services for clients  
25    or customers.  
26    (E) Sets the rate of pay of workers, whether or not through  
27    negotiation.  
28    (F) Pays workers from its own account or accounts.  
29    (G) Retains the right to hire and terminate workers.  
30    (4) “Temporary services employer” does not include any of the  
31    following:  
32    (A) A bona fide nonprofit organization that provides temporary  
33    service employees to clients.  
34    (B) A farm labor contractor, as defined in subdivision (b) of  
35    Section 1682.

(C) A garment manufacturing employer, which, for purposes of this section, has the same meaning as “contractor,” as defined in subdivision (d) of Section 2671.

(b) (1) Except as provided in paragraphs (2) to (5), inclusive, if an employee of a temporary services employer is assigned to work for a client, that employee’s wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any calendar week shall be due and payable not later than the regular payday of the following calendar week. A temporary services employer shall be deemed to have timely paid wages upon completion of an assignment if wages are paid in compliance with this subdivision.

(2) If an employee of a temporary services employer is assigned to work for a client on a day-to-day basis, that employee’s wages are due and payable at the end of each day, regardless of when the assignment ends, if each of the following occurs:

(A) The employee reports to or assembles at the office of the temporary services employer or other location.

(B) The employee is dispatched to a client’s worksite each day and returns to or reports to the office of the temporary services employer or other location upon completion of the assignment.

(C) The employee’s work is not executive, administrative, or professional, as defined in the wage orders of the Industrial Welfare Commission, and is not clerical.

(3) If an employee of a temporary services employer is assigned to work for a client engaged in a trade dispute, that employee’s wages are due and payable at the end of each day, regardless of when the assignment ends.

(4) If an employee of a temporary services employer is assigned to work for a client and is discharged by the temporary services employer or leasing employer, wages are due and payable as provided in Section 201.

(5) If an employee of a temporary services employer is assigned to work for a client and quits his or her employment with the temporary services employer, wages are due and payable as provided in Section 202.

(6) If an employee of a temporary services employer is assigned to work for a client for over 90 consecutive calendar days, *or if the employer is a home health agency licensed pursuant to Section 1725 of the Health and Safety Code, a hospice licensed pursuant*

1 to Section 1746 of the Health and Safety Code, or a home care  
2 employer that provides supportive and personal care services  
3 defined in subdivisions (b) and (c) of Section 12300 of the Welfare  
4 and Institutions Code, this section shall not apply unless the  
5 temporary services employer pays the employee weekly in  
6 compliance with paragraph (1) of subdivision (b).

7 (c) A temporary services employer who violates this section  
8 shall be subject to the civil penalties provided for in Section 203,  
9 and to any other penalties available at law.

10 (d) A hospice employer, home health employer, or home care  
11 employer who provides services such as those described in  
12 subdivisions (b) and (c) of Section 12300 of the Welfare and  
13 Institutions Code shall be deemed to have timely paid wages upon  
14 completion of an assignment if wages are paid semimonthly.

15 (e) Nothing in this section shall be interpreted to limit any rights  
16 or remedies otherwise available under state or federal law.

17 SEC. 2. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety within  
19 the meaning of Article IV of the Constitution and shall go into  
20 immediate effect. The facts constituting the necessity are:

21 In order to promote more efficient delivery of health care services  
22 and payments at the earliest possible time, it is necessary that this  
23 act take effect immediately.